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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,323	12/07/2001	Hyoung Yoon Kim	P-0304	4253

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KED & ASSOCIATES, LLP  
P.O. Box 221200  
Chantilly, VA 20153-1200

EXAMINER
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SAMS, MATTHEW C

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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11/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/005,323

Applicant(s)

KIM, HYOUNG YOON

Examiner

Matthew C. Sams

Art Unit

2617

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 13 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-5, 8-10, 14, 19 and 20.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See continuation sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
**LESTER G. KINCAID**  
SUPERVISORY PRIMARY EXAMINER

***Response to Arguments***

1. Applicant's arguments filed 11/13/2007 have been fully considered but they are not persuasive.

2. In response to the applicant's argument regarding the "Lunsford publication does not teach or suggest that its terminal includes a keyinput function which "operates with a display menu to change a mode of the terminal between general call mode and the headset mode" as recited in claim 1" (Page 10 Full Para 1), the examiner disagrees.

Lunsford teaches the terminal (Fig. 1 [12 & 14]) includes a keyinput function (Fig. 6B and Page 5 [0061-0063]) which operates with a display menu (Fig. 6B) to change a mode of the terminal between two different communication modes. (Fig. 6B and Page 5 [0061-0063])

3. In response to the applicant's argument regarding the "Sinha patent actually teaches away from these features when it discloses automatically switching to a VoIP mode" (Page 10 Para 2), the examiner disagrees.

The examiner's combination of the Sinha patent in view of the Lunsford application gives the user the ability to ultimately decide the communication mode of the mobile terminal regardless of the mobile terminal's location. This is viewed by the examiner as an additional feature for the mobile terminal that makes operation of the mobile terminal more flexible and desirable to the user, not a feature that teaches away from the Sinha's intent of "offering a user a phone service, which he/she can access from anywhere and at anytime in the world through a signal personalized device (phone)". (Col. 3 lines 3-6) Further, Sinha teaches the "mobile telephone 150 can be

configured to automatically switch to this additional communication whenever it detects the presence of a gateway" (Col. 6 lines 15-18), not that the mobile telephone always has to switch to the gateway. The examiner views Sinha's teachings as being receptive for modification to include a user selection of the communication mode as taught by Lunsford. (Fig. 6B) The examiner's reasons for combining include giving the user the ability to choose which communication network is used by the mobile terminal for reasons including: lack of mobile (cellular) minutes, poor cellular network coverage indoors, one network could provide additional calling features and cheaper rates for a specific network during different times of the day.

4. In response to the applicant's argument regarding claim 19 that "the mobile station modem performs an additional function of periodically checking whether the mobile communication terminal has been set to the headset mode" are "not taught or suggested by the Sinha patent or the Lunsford publication" (Page 11), the examiner disagrees.

Sinha clearly teaches the ability configure a mobile terminal to "automatically switch" communication modes (Col. 6 lines 13-18), which the examiner interprets as once the conventional cellular network base station or the gateway's pilot signal is received as a stronger signal at the mobile terminal, the mobile terminal (if configured to) can automatically switch communication modes to communicate with the stronger network. (Col. 6 lines 9-63) One of ordinary skill in the art would recognize that the ability to "automatically switch" would require the mobile terminal to constantly monitor

the different network access points for the better signal, which results in periodic changes in the mode of operation.

Further, since the applicant uses "periodically checking" interchangeably with "every time there is a key input for establishing an operation mode of the terminal" (2002/0082057 [0035]), Sinha in view of Lunsford clearly teaches changing the mode of communication anytime the user selects a specified communication mode, which correspondingly changes the input/output ports. (Lunsford Fig. 2 [26 & 28], Fig. 6B and Page 5 [0061-0063])